

Congress of the United States
Washington, DC 20515

November 23, 2021

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear President Biden,

On January 26, 2021, you signed Executive Order 14006 (EO 14006), entitled “Reforming our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities.” This order was an important step forward in remedying the significant hardships and negative consequences caused by the inhumane treatment of detainees in private prisons across the country. As described in your order, there is broad consensus that mass incarceration does not make us safer and decreasing incarceration levels requires “reduc[ing] profit-based incentives” in our criminal justice system.¹

For-profit prisons have long been notorious for their mistreatment and mismanagement of inmates, endangering the lives of those in their custody. For example, a 2016 Department of Justice Office of the Inspector General report found that private prisons had a 28 percent higher rate of inmate-on-inmate assaults and had more overall safety- and security-related incidents per capita than federally managed institutions.² While I applaud your work to remove these companies from our criminal justice system, public reporting has highlighted new tactics used by private prison companies to retain federal prison contracts in an effort to continue to reap profits off of the incarceration and dehumanization of those within their custody.³

For example, on September 21, 2021, the GEO Group announced that, effective October 1, 2021, it entered a six-month contract extension with the U.S. Marshals Service (USMS) for the 770-bed Western Region Detention Facility (WRDF) in San Diego, California.⁴ The GEO Group purports that this contract extension does not violate EO 14006 because of its unique legal structure. The new contract seeks to circumvent EO 14006 by making use of local governments as intermediaries for federal prison contracts so that private prisons are not directly contracting with the federal government. This scheme requires local governments, who are compensated heavily for their involvement, sign intergovernmental contracts for federal detention facilities,

¹ Exec. Order No. 14006, 86 Fed. Reg. 7483 (Jan. 29, 2021).

² Office of the Inspector General, U.S. Department of Justice, *Review of the Federal Bureau of Prisons’ Monitoring of Contract Prisons* (Aug. 2016).

³ Kristina Davis, *Downtown San Diego private prison looks to remain open despite Biden order*, SAN DIEGO TRIBUNE (Sept. 21, 2021), <https://www.sandiegouniontribune.com/news/public-safety/story/2021-09-21/san-diego-geo-private-prison>.

⁴ *Id.*

only to subcontract those out to private prison companies. This directly violates the spirit and purpose of EO 14006 to stop the for-profit detention of federal inmates.

For-profit prison companies are also recruiting municipalities to participate in this scheme that are not directly accountable to the constituents most impacted by the continued for-profit detention of inmates in their community. For example, the WRDF contract in San Diego was entered into by the local government of McFarland, CA, a small, cash-strapped city with a population of 16,000 located 250 miles away from the facility itself.⁵ Under the WRDF contract, McFarland will subcontract out to the GEO Group, who will pay them a \$500,000 administrative fee in return for their involvement in the circumvention of EO 14006.⁶ Unfortunately, this results in a for-profit prison company being able to retain its federal contract, while the most impacted community loses its ability to hold the appropriate elected officials accountable.

The GEO Group is not the only private prison attempting to undermine EO 14006. CoreCivic has also utilized these intermediary contract schemes to retain federal private prison contracts despite your order. For example, in May 2021, CoreCivic entered a similar contract with Mahoning County to run the Northeast Ohio Correctional Center.⁷

It is our hope that you will use the authority vested in you to enforce EO 14006 to its fullest extent and prevent private prison companies from having a stake in the incarceration and dehumanization of those within their custody. We must remove profit-based incentives from our criminal justice system to address the incarceration crisis in our country and ensure the humane treatment of those who are detained.

Thank you for your consideration of this matter.

Sincerely,



Steve Cohen
Member of Congress



Rashida Tlaib
Member of Congress

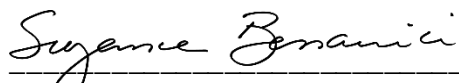


Norma J. Torres
Member of Congress

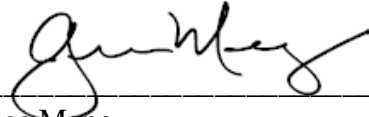
⁵ *Id.*

⁶ *Id.*

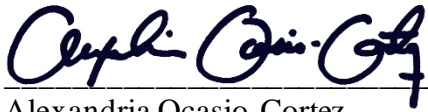
⁷ Justin Dennis, *Though Biden wants to stop using them, Marshals keep using Youngstown's private prison*, MAHONING MATERS (May 27, 2021), <https://www.mahoningmatters.com/local-news/though-biden-wants-to-stop-using-private-prisons-mahoning-can-keep-using-neocc-3814922>.



Suzanne Bonamici
Member of Congress



Grace Meng
Member of Congress



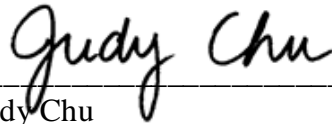
Alexandria Ocasio-Cortez
Member of Congress



Nanette Diaz Barragán
Member of Congress

/s/

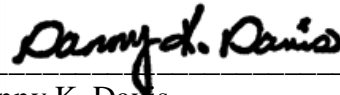
André Carson
Member of Congress



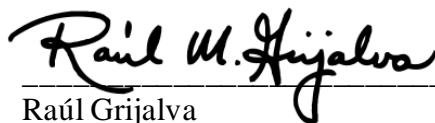
Judy Chu
Member of Congress



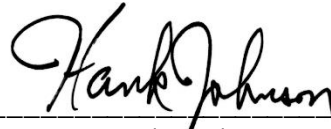
Bonnie Watson Coleman
Member of Congress



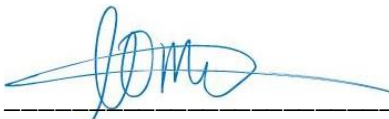
Danny K. Davis
Member of Congress



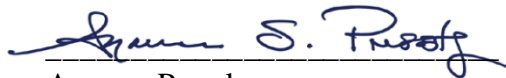
Raúl Grijalva
Member of Congress



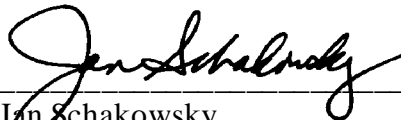
Henry "Hank" Johnson
Member of Congress



Ilhan Omar
Member of Congress



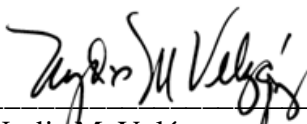
Ayanna Pressley
Member of Congress



Jan Schakowsky
Member of Congress



Mark Takano
Member of Congress



Nydia M. Velázquez
Member of Congress